



# Nevada Synar Report 2004

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## **Introduction**

This report is prepared in response to the Synar requirements in the Substance Abuse and Prevention (SAPT) Block Grant, Goal 8 and Attachment G. The SAPT Block Grant is administered by the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA). The Synar requirements are enforced by SAMHSA's Center for Substance Abuse Prevention (CSAP).

This report presents information on activities conducted in FFY 2003 for the 2004 SAPT Block Grant Application. It is organized by questions contained in the Synar reporting instructions and is presented in the same order as the questions appear in the instructions. Following each question is a response to the individual items contained in the question.

SAPT Block Grant funds are contingent upon the presence of state laws that forbid any manufacturer, retailer, or distributor of tobacco products to sell tobacco products to any minor child under the age of eighteen. Also, these laws must be enforced in such a manner as to reasonably be expected to reduce the extent that tobacco products are available to minors. Synar requirements call for the state to conduct inspections of retail tobacco outlets to determine if youth under the age of 18 are able to purchase tobacco products. Nevada is required to maintain a buy rate of 20% or less with a confidence interval of  $\pm 3$  percentage points. For FFY 2003, the final weighted non-compliance rate presented in the report is 11.37% which is less than the target value of 20.00%. This is a reduction of 37.7% from the 2002 noncompliance rate of 18.26%, and a reduction of 46.5% from the 2001 noncompliance rate of 21.24%.

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For a copy of appendices, which are not included in the .pdf version of this report, contact the Bureau of Alcohol and Drug Abuse, State Health Division, Department of Human Resources.

## **State Law Regarding Sale of Tobacco Products to Individuals Under Age of 18 (Section 1926)**

An agreement to continue to have in effect a State law that makes it unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18; and, to enforce such laws in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under age 18 (See 42 U.S.C. 300x-26 and 45 C.F.R. 96.130).

## **SECTION I**

### **FFY 2003 (Compliance Progress)**

42 U.S.C. 300x-26 of the Public Health Service Act requires certain information regarding the sale/distribution of tobacco products to individuals under age 18.

- 1. Describe any changes or additions to the State tobacco statute relating to 42 U.S.C. 300x-26 since the last application. Attach a photocopy of the changes and describe the impact they will have on enforcement of State tobacco law(s).**

At the request of the Nevada Attorney General, SB 315 was introduced in the 2003 Session of the Nevada Legislature. SB 315 changes Nevada law to prohibit cigarette vending machines from being placed in any public area except gaming and bar areas where individuals under 21 years of age are prohibited by law from loitering. SB 315 was passed by the Legislature and signed by the Governor. It takes effect on October 1, 2003. A copy of SB 315 is included with this report (Appendix A).

SB 315 will reduce the number of total outlets which are accessible to under age youth in Nevada. The Attorney General's office could only identify approximately 40 cigarette vending machines outside of gaming and bar areas before the law was passed (many of these have since been removed). The businesses where those are located will be required to either remove those machines completely or move them to gaming or bar areas by October 1, 2003. If the business declines to move the machine to a gaming or bar area, the Attorney General may bring a civil action for injunction to prohibit the business from placing a cigarette vending machine anywhere but in a gaming or bar area.

- 2. Describe how the annual report required under 45 C.F.R. 96.130(e) was made public within the State, along with the State Plan as provided in 42 U.S.C. 300x-51.**

The annual report was presented in a hearing on September 19, 2003. Advanced notice of this hearing was placed in various newspapers around the state. Notice of the hearing was also placed in at least four public places as per the Nevada Administrative Procedures Act. The report was sent to members of the Bureau of Alcohol and Drug Abuse Advisory Committee in advance of the September 19, 2003 meeting and was placed on the Bureau's web site at: <http://health2k.state.nv.us/BADA/>. Finally, notice was sent to all members of

the State Incentive Grant (SIG) Advisory Committee and all substance abuse treatment and prevention programs funded by the Bureau of Alcohol and Drug Abuse.

- 3. Identify the agency or agencies designated by the Governor for the implementation of the requirements. Identify the State agency responsible for conducting random, unannounced inspections. Identify the State and/or local agency or agencies that are responsible for enforcing the tobacco access law(s) (See 42 U.S.C. 300x-26 and 45 C.F.R. 96.130).**

The Nevada Department of Human Resources, State Health Division, Bureau of Alcohol and Drug Abuse (BADA), is ultimately responsible for the implementation of the requirements specified by the Synar legislation. The Attorney General's Office is responsible for the enforcement of state tobacco laws governing the sale of tobacco to minors and conducting random unannounced inspections pursuant to Nevada Revised Statute (NRS) 202.2496. Local law enforcement agencies have concurrent authority over the sale of tobacco to minors.

The Nevada Attorney General's Office is the agency involved in enforcement activities. The staff devoted to this activity include the Tobacco Chief Counsel (one-half time), two investigators (each full time), one management assistant, and eight youths (each part time). The Attorney General's Office conducts uniform compliance checks at all tobacco outlets across the State of Nevada. This uniformity assures that all businesses are treated in an equitable manner. The practice of inspecting every outlet in Nevada ensures that all youth, statewide, benefit from the program. This practice also assures that no outlet or group of outlets perceives they are being targeted. The program is strongly supported by the retail community and public in general.

- 4. Describe briefly the coordination and collaboration that occurs between your State's Tobacco and Health Office (Association of State and Territorial Health Officials) and Single State Authority for Substance Abuse (NASADAD). Discuss how State efforts to reduce youth access to tobacco relate to other tobacco control and prevention initiatives in your State.**

As stated above, BADA is responsible for the implementation of the Synar regulations in partnership with the Attorney General's Office. BADA is the Single State Agency for the SAPT Block Grant; consequently, there is a great deal of coordination and collaboration between the Bureau and the primary prevention programs funded by the Bureau. Additionally, BADA works closely with the Tobacco Control Project. This project is housed in the Nevada State Health Division as is BADA. The goals of the Tobacco Control Project are to: prevent the initiation of tobacco use among young people; promote quitting among young people and adults; eliminate nonsmokers' exposure to environmental tobacco smoke; and to identify and eliminate the disparities related to tobacco use and its effects among different population groups.

BADA is also a member of the Nevada Tobacco Prevention Coalition (NTPC) having joined the coalition in 2001. NTPC is a coalition of agencies and individuals determined to fight the high prevalence of tobacco use in Nevada. NTPC is committed to influencing Nevada's decision makers and raising awareness with Nevada citizens on numerous issues of tobacco use and industry marketing. This coalition is also actively involved in coordinating

prevention activities with state and community agencies, hospitals, schools, and community-based organizations. They believe that a focus on youth and a tobacco free environment will produce a healthier Nevada.

Four major programs were established by the State of Nevada with the tobacco settlement money. First, the Millennium Scholarship provides tuition assistance to Nevada youth who maintain a “B” average throughout high school. Second, the prescription insurance plan subsidizes prescription costs of senior citizens living below a certain income level. Third, 10% of the tobacco settlement money is allocated to a public health trust fund to promote public health and programs for disease or illness prevention, research issues related to public health, and provide direct health care services to children and senior citizens. Finally, the *Task Force for The Fund for a Healthy Nevada* was established to: solicit public input; establish a process to evaluate health needs; ensure that tobacco cessation programs are funded; ensure that programs for children, people with disability, and senior citizens are funded; ensure that tobacco settlement money is not used to supplant existing methods of funding; and to develop policies for distribution of grants.

BADA received funds through *The Fund for a Healthy Nevada* to implement environmental approaches to tobacco prevention that local coalitions can adapt to meet the needs of their specific communities. The goal of this project is to impact policies, community norms, and media advertising of tobacco in order to prevent youth access and exposure to tobacco. This program encompasses all northern and rural/frontier Nevada communities. The coalitions work with local youth groups to plan, organize, monitor, and evaluate prevention approaches implemented in the community. Through these funds, eight rural coalitions collectively received \$400,000 of tobacco settlement money (for SFY2003 & 2004; \$200,000 / year) to develop environmental prevention strategies addressing tobacco usage. Eleven treatment providers were also collectively awarded \$4,397,486 (directly from the fund) for cessation programs to be expended over a four-year period (for SFY 2001 through SFY 2004).

The State of Nevada has also been awarded a State Incentive Grant that will provide \$3,000,000 per year for three years to facilitate the development of 14 local coalitions in 11 geographic areas and three special populations (Latino in Northern Nevada, Latino in Southern Nevada and Statewide Native American). These coalitions will serve as regional prevention centers to develop and implement local comprehensive community prevention plans, and to identify and fund evidence-based programs that will fill service gaps without duplicating existing services.

5. **In 2-3 pages, list and describe all the State’s activities to enforce the State youth access to tobacco law(s) in FFY 2003. Such activities may include statewide and/or targeted enforcement activities.**
  - **If enforcement of youth access laws is carried out by local law enforcement agencies, provide a detailed summary of local enforcement activities to verify the enforcement is taking place.**

Local law enforcement agencies in Nevada do not carry out unannounced compliance checks to enforce youth access laws to tobacco products.

- **Include an estimate of the number and types of penalties that were imposed for violation of access laws and policies, and whether these penalties were assessed against owners, clerks, or youth. Examples of penalties include citations, warning letters, public listing of violators, etc.**

A total of 3,523 enforcement compliance checks were conducted from October 1, 2002 through July 16, 2003; 691 Synar study compliance checks, and 2,832 non-Synar compliance inspections (691 + 2,832 = 3,523). The Attorney General's Office combines Synar inspections with enforcement. These 3,523 compliance inspections resulted in 435 illegal sales with 378 citations and 57 warnings issued. All citations were issued to the person who made the sale of tobacco to the under age youth. They are all misdemeanor criminal charges.

Of the 435 illegal sales: 335 clerks asked for identification; one (1) requested age but no identification; six (6) asked for identification and also asked the youth their age; and 93 requested neither.

- **Provide a summary of the final disposition of citations. Example(s) of final disposition include fines that were assessed and collected, licenses that were suspended or revoked, dismissals, etc.**

Synar citation results are reported to the Attorney General's Office on a voluntary basis; therefore, the following table details dispositions of 175 citations that were reported. Of these reported dispositions 14.3% imposed fines, 14.9% were deferred if the plaintiff completed the on-line WE CARD class, 11.4% of the citations were dismissed if the plaintiff had no more infractions for 90 days, 14.3% were dismissed by the court, warrants were issued for 13.1%, and 32.0% had the Arraignment Pending.

**Table 1**  
**Breakdown of the 161 Dispositions Reported to the Attorney General's Office**  
**Resulting from Synar Citations**

<b>Range of Fine</b>	<b>Number of Defendants Receiving Fines</b>	<b>Percent of Defendants Receiving Fines</b>
\$300 and Greater	15	8.6%
\$200-299	1	0.6%
\$100-199	7	4.0%
\$17.00 and Attend the We Card Internet Class	2	1.1%
Dismissed if attend the WE CARD Internet Class	26	14.9%
Dismissed if no more infractions for 90 days	20	11.4%
Dismissed by Court	25	14.3%
Warrant Issued	23	13.1%
Misdemeanor Arraignment Pending – No Disposition Yet	56	32.0%
<b>Total</b>	<b>175</b>	<b>100%</b>



Unless the merchant (store owner) actually made the illegal sale of tobacco products, all of the above fines were issued to the retail clerks who made the sale, and fines were not imposed on merchants. The Attorney General's Office is reviewing in what situations merchants should be charged in addition to the sales clerk involved.

All 378 violators who received citations were given the right to appear in the local justice court; warrants were issued for those who did not appear.

Generally, the Attorney General does not issue warning letters to any over-the-counter outlets. However, supervising investigators are afforded some discretion and in some instances may decide not to issue a citation to the sales clerk at the time of a compliance check. When that happens, the investigator reports the reason(s) for the decision to the Attorney General's Office and a letter is then sent to the outlet stating that tobacco was sold and further explaining that no citation was issued. As shown above, investigators gave warnings to 57 businesses. Some of the warnings were given because an investigator was new and in training.

A total of five (5) warning letters were mailed to businesses where vending machines were checked (Table 2). This letter asks the business to move the machine to an adult only area. On October 1, 2003, SB 315 takes effect. Its purpose is to prohibit cigarette vending machines from being placed in any public area except gaming and bar areas where minors under 21 years of age are prohibited by law from loitering.

The Attorney General's Office mailed 3,088 congratulatory letters, as well as 378 letters notifying facility owners that an illegal sale occurred at their businesses and that a citation was issued (Table 2). These letters were sent with a copy of the compliance check report completed by the Attorney General's Office investigator at the time of the compliance check.

**Table 2**  
**Follow-up Letters Sent After Compliance Checks (for all inspections conducted by the Attorney General's Office from October 1, 2002 through July 16, 2003).**

	No Sale/Sale	Numbers	Type of Letter
<b>Over-the-counter Establishments</b>			
	No Sale	3,079	Congratulatory
	Sale	378	Citation
	Sale	52	Warning
<b>Vending Machines</b>			
	No Sale	9	Congratulatory
	Sale	5	Warning
<b>Total</b>		3,523	

Names of violators were not released to the public. The names of violators, either the clerk or the store, are available upon request under the public records requirements of Nevada law. The Phillip Morris Company has made such a public documents request and starting in April, 2003, that firm began receiving the list of outlets where illegal sales had occurred and where sales staff have either pleaded guilty or have been found guilty after a citation was issued.

- **Describe additional activities conducted to support enforcement and compliance with State tobacco access law(s). Additional activities may include merchant education, community education, media use, and community mobilization by statewide and/or local community-based coalitions and/or other State agencies.**

Nevada statute requires that a written report of each compliance check be mailed to every outlet after the check is completed. In addition, the cover letter that accompanies every report encourages on-going training and includes the toll free telephone number for the WE CARD program. In June 2002, the Attorney General's Office mailed a one-page, two-sided flyer that describes Nevada law prohibiting the sale of tobacco to minors. This letter encouraged businesses to copy the flyer for distribution to all sales staff. Finally, the stores that sell tobacco to the underage youth are sent a copy of the booklet, "Guide to Best Practices," published by the WE CARD program.

As of October, 2002, the Attorney General began to offer corporations owning multiple outlets the opportunity to receive a copy of the compliance check results by FAX rather than through the mail. This program started as a pilot program to see if it could garner support from members of the retail community. The primary advantage of the FAX program is that the owner of the business receives notice of the compliance check very quickly, thus allowing the business to take swift action, either favorably or unfavorably, regarding the sales and managerial staff at the business. A disadvantage exists in that merchant education inserts are not included with the FAX, only the compliance check report itself. However, outlets that sign up for the FAX program have received some merchant education enclosed with earlier compliance check reports minimizing any impact that disadvantage presents.

Under the FAX notification program, some businesses receive notice of the results of the compliance check within one to two business days of the check and most within five days. In contrast, the mailed notice takes up to three additional days. About 32 % of all outlets are currently receiving notice by FAX rather than by mail. Today, all outlets are being encouraged to sign up for the FAX notification program. Businesses have positively responded to the FAX program.

In March, 2003, the Attorney General's Office sent a letter notifying businesses that use Internet sites to sell tobacco products that they must have a plan to ensure persons under 18 do not purchase tobacco over the Internet here in Nevada, as required by NRS 202.24935. Approximately 400 letters were mailed.

The Attorney General has created a working group that includes the U.S. Customs Service, the U.S. Bureau of Alcohol, Tobacco and Firearms, and the Nevada Department of Taxation. This working group meets quarterly to discuss enforcement issues related to all cigarette laws, both federal and state. The Attorney General's investigative staff has begun screening all cigarette package purchases during compliance checks to learn if they are counterfeit cigarettes or have a counterfeit stamp. If the investigator identifies either, the name and address of the store along with the date and time of the purchase is sent to the appropriate state or federal agency to further investigate. Counterfeit cigarettes may be offered for sale at less than market price. Less expensive cigarettes are more likely to be purchased by underage youths.

In the Fall of 2002, the Attorney General's Office asked all Nevada state funded substance abuse treatment programs to mail a short thank you letter to all Nevada tobacco outlets. The letter described the Synar requirements and thanked the businesses for working to reduce the sale of tobacco to minors. A list of all outlets were given to the state association of executive directors of substance abuse treatment programs. The association split up the list so that programs in different geographical areas could send the thank you letter to the businesses in their local areas. The letters were sent in the Winter of 2002-03 to all 2,000 outlets in Nevada.

### **Merchant Education**

Several corporations with numerous outlets were asked to conduct WE CARD training for their sales and managerial staff. The Attorney General's Office sent letters to Cigarettes Cheaper (37 outlets), Wal Mart, Smith's Food and Drug, Terrible Herbs (58 outlets), Short Line Express (5 outlets), Scolari's, Rite Aid, Horizon Markets, Green Valley Grocery, Circle K, Winners Corners (34 outlets), and a group of gaming resorts located in Reno (10 outlets). Cigarettes Cheaper, Terrible Herbst, Short Line Express, Winners Corners and the group of Reno gaming resorts conducted live training that lasted approximately two hours. Seven WE CARD trainings were conducted with a total of 230 sales and managerial staff from the 144 outlets attended seven training sessions.

The Attorney General's Office drafted a two-page tobacco retailer survey to learn retail practices regarding the sale of tobacco. Approximately 90 stores have completed the survey. Whether a store responds to the survey is completely voluntary. The blank survey is distributed to all outlets when the compliance check results are distributed to businesses with a note asking the business to complete the survey and return it to the Nevada Petroleum Marketers, a convenience store association. The surveys are turned over to WE CARD program staff who are compiling the results. The results will be used to strengthen merchant education activities.

John Albrecht, Chief Tobacco Counsel, is a participant in the Responsible Retailing Forum sponsored by Brandeis University. Additionally, in January, 2003 he attended a two-day meeting in Orlando, Florida, for the purpose of

identifying successful retailing practices that help reduce the sale of alcohol and tobacco products to minors.

### **Community Education**

The Attorney General's Office mailed a four-page letter to every county sheriff and city police chief in the state. The letter described the requirements of the Synar amendment and how compliance checks are conducted. It included the names, addresses and telephone numbers of both tobacco investigators and offered the assistance of the Attorney General's Office to local law enforcement agencies. For example, the Attorney General offered to allow the local law enforcement agency to use the Attorney General's database of tobacco outlets.

### **Media Use**

The Attorney General's office issued three press releases from October 1, 2002 to June 17, 2003 regarding the tobacco compliance check program. The press releases (1) announced the merchant education program conducted with Terrible Herbst chain; (2) explained the compliance check program; and (3) announced the Attorney General's creation of a working force with the U.S. Customs Service, Bureau of Alcohol, Tobacco, and Firearms, and the Nevada Department of Taxation to coordinate enforcement activities.

6. **In 2-3 pages, describe the sampling methodology used by the State to conduct random, unannounced inspections. Include in the description the following information:**

#### **Sampling design and methodology**

**Did the sampling methodology change from the previous year? If so, indicate the following.**

No, the same methodology, approved for the FFY 2003 report, was used for the FFY 2004 report.

#### **Describe the source(s) and quality of the sampling frame**

- **The date when the sampling frame was last updated:**

The sampling frame used for the Synar study is a running list that is continually updated by the Attorney General's Office. The FFY 2004 Synar sample was drawn in September 2002 from the most current version of the list.

- **The procedures used to insure that the addresses of tobacco outlets on the sampling frame are accurate:**

The Attorney General's Office uses a *list-assisted* sampling frame that is continually updated. While conducting inspections, inspectors check new establishments and gather pertinent information for addition to the database. The

Synar database is used to assist with tracking of facilities selling tobacco products, inspection information, and the compliance history of individual retail outlets.

- **The criteria used to determine accessibility of outlets to youths:**

Youth under the age of 21 are prohibited from loitering in gaming areas, taverns, and brothels by Nevada law. Vending machines or over-the-counter outlets located in these areas are considered inaccessible and, therefore, they are not inspected. Otherwise, youth accessibility is assumed possible.

- **The methods used to verify that outlets identified on the sampling frame actually do sell tobacco:**

Every outlet selling tobacco products and accessible to youth is inspected twice a year. As inspectors travel through town conducting inspections, they are diligent to identify and inspect new establishments and record pertinent facility data to be added to the Synar database. Inspectors record outlets that are in the sampling frame and do not sell tobacco products; the Synar database is then updated accordingly.

- **The methods used to locate tobacco outlets that were not on the sampling frame:**

Please see the information presented above.

- **The accuracy of the frame: the percentage of the sampling frame that included outlets that actually sell tobacco and had accurate addresses:**

The accuracy of the sampling frame is greater than the following figures indicate, because the initial list from which the sample was drawn included establishments that were out of business, that were not accessible to minors, or did not sell tobacco products. These establishments will be marked inactive for the next Synar sample and this problem will be alleviated. A separate query will be created in the Synar database that will allow the Attorney General's Office to monitor inactive sites to ensure their status has not changed.

Out of the original 799 establishments selected in the original sample, 132 of these establishments were ineligible (Table 5). Therefore, 84% of the inspected outlets did sell tobacco products  $(1-(132/799)) \times 100 = 83.5\%$ .

- **The coverage of the frame: the percentage of all tobacco outlets in the State that were actually included on the sampling frame:**

Based on the original sample size of 799, ineligible and non-completed inspections of 150, and the number of newly identified establishments of 42, the percent coverage of all tobacco outlets that were included in the sampling frame is 94%  $(1-(42/(799-150))) \times 100 = 93.5\%$ .

### **Describe the random selection process**

- **The geographic unit used for sampling:**

All stores were sorted by stratum and random samples were then drawn from each stratum until the sample size required was met. Zip codes proportional to size

weighing needs were randomly selected until the minimal number of establishments for each stratum was selected. All known retail outlets, accessible to youth, that engage in the sale of tobacco products were inspected for each selected zip code.

▪ **The procedures used for selecting the sample of geographic sampling units:**

The sampling methodology used was not a simple randomized sample but a more complex stratified sample. Zip codes to be surveyed in each stratum were randomly selected, and included enough zip codes to provide a total sample number that was at least equal to the minimum adequate sample size.

▪ **The method used for selecting outlets from within each sample geographic sampling unit:**

All retail outlets in selected geographic units were inspected.

▪ **The original sample size, minimum number of required inspections, and final sample size; and explain how they were determined:**

For calculations of minimum required sample size, please refer to Appendix C.

Data from the previous year's Synar study was used to determine the minimum adequate sample size for the 2003 study. The noncompliance rate used for the estimation was 18.26, (last years weighted failure rate). The outlet population size (N) was obtained from the facility list provided by the Attorney General's Office. The raw N of 2,087 was further adjusted to 2,034 using previous year's data on ineligible outlets (Table 3).

**Table 3**  
**An Estimation of Outlet Population Per Strata**

<b>Stratum</b>	<b>Stratum Size</b>	<b>Eligibility Rate</b>	<b>Adj. Stratum Size</b>	<b>% of Population</b>
Group 1	821	99.10%	814	40.02%
Group 2	678	98.83%	670	32.94%
Group 3	588	93.53%	550	27.04%
TOTAL	2,087	N/A	2,034	100%

Based on the previous year's design effect of 1.85 and the square of that being 1.36, the 95% one-sided confidence interval (CI) should be within 3% ( $2.24\% \times 1.36$ ) if the sample size is 592 or larger. In order to assure that the sample was within the desired CI limitations, it was decided a sample of 607 would be drawn (Table 4). Based on last year's observation ratio, 607 would be the minimum sample size needed to collect a sample of 592. The final number of establishments sampled in this year's Synar study was actually 691.

These stores were divided among the three strata based on the stratum size. Once the desired sample size for each stratum was calculated, the required number of stores per

stratum were determined using the inspection ratios from the previous year. Zip codes were randomly selected from each stratum until at least 711 facilities were drawn (Table 4). The actual sample size drawn for 2003 was 799.

**Table 4**  
**Calculation of Desired Stratum Sample Size**

Stratum	Sample Size	Observation Rate	Adj. Sample Size
Group 1	244	99.10%	246
Group 2	193	98.83%	195
Group 3	155	93.53%	166
TOTAL	592	N/A	607

### **Random Selection**

All outlets within each stratum were numbered; this number was then multiplied by a random number of 0 to 1. Finally, the number “1” was added to each number to provide equal probability of drawing the highest and lowest number of each stratum. The resulting numbers were then rounded to the nearest whole number. These numbers were then used to draw random samples from each stratum.

- **If applicable, explain the difference between the original sample size and the final sample size; and indicate whether the final sample is representative of the distribution of tobacco outlets in the State.**

All eligible sites were inspected except for the five sites that were deemed unsafe for minors, five sites that were temporarily closed, two sites that inspectors were unable to locate, and six sites that were not inspected (Table 5). If all 18 of these sites had been inspected, and in a worst-case scenario all had violations, the unweighted violation rate would be 14.2%. This would still be well below the 20% target value. Based on the unweighted noncompliance rate, only two of these non-completed inspections would be expected to have violations.

**Describe how replacement outlets and non-completed inspections were handled. Provide a complete tally of non-completed inspections that include:**

For a complete list of ineligible establishments see Appendix C.

As mentioned above, facilities were over-sampled to avoid the need for replacement outlets in the study. There were, however, 42 newly discovered outlets within the selected zip codes that were added to the Synar study.

- **The number of inspections that were not completed because the outlets were ineligible:**

One hundred thirty-two (132) establishments in the original sample were found ineligible for the following reasons: 31 did not sell tobacco products; 53 were inaccessible to youth; 39 were out of business; and 9 vending machines had been removed (Table 5).



As previously stated, the initial sample list from which the Synar sample was drawn included establishments that were out of business, inaccessible to minors, or that did not sell tobacco. This is the reason for the larger number of ineligible facilities. The assisted list maintained in the Attorney General's Synar database is much more accurate that this table depicts, and this will be remedied when the next Synar sample is drawn.

**Table 5**  
**Non-completed Inspections**

<b>Reason for Non-completion</b>	<b>Numbers of Non-completed Inspections</b>	<b>Percentage of total Non-completed Inspections</b>
<b>Eligible Outlets</b>		
Temporarily closed	5	3.3%
Unsatisfactory conditions	5	3.3%
Unable to locate	2	1.3%
Not inspected	6	4.0%
<b>Total Eligible Outlets</b>	<b>18</b>	<b>11.9%</b>
<b>Ineligible Outlets</b>		
Does not sell tobacco	31	20.7%
Inaccessible to youth	53	35.4%
Out of business	39	26.0%
Vending machine removed	9	6.0%
<b>Total Ineligible Outlets</b>	<b>132</b>	<b>88.1%</b>
<b>Total Non-completed Inspections</b>	<b>150</b>	<b>100.0%</b>

▪ **The number of eligible but non-completed inspections:**

Eighteen retail outlets were eligible but were not inspected. Five establishments were not inspected because unsatisfactory conditions existed, five businesses were not inspected because they were temporarily closed, two retailers were not inspected because they were not found, and another six businesses were not inspected (Table 5).

To summarize, 132 establishments were ineligible, 18 establishments were eligible but not inspected, and 42 new establishments were identified during the course of inspections. A total of 691 sites were checked out of 799 eligible sites ( $799 - 132 - 18 + 42 = 691$ ).

▪ **Vending Machines:**

As previously stated, establishments where youth are prevented from loitering such as gaming areas, taverns, or brothels are not inspected. Synar inspectors require that vending machines in taverns be located at least 25 feet inside the entrance to the establishment. Through experience, these inspectors know what types of facilities install vending machines for tobacco products; therefore, they add newly identified establishments to the master list continually. This is the



same procedure used to identify new over-the-counter establishments. Although the buy rate from machines may be much higher than over-the-counter sales, the percentage of total purchases by minors is very low in Nevada.

The Attorney General's Office tracks vending machine locations in contrast to over-the-counter outlets within the sampling frame list. Vending machines as well as over-the-counter establishments were inspected for each selected zip code. These vending machine locations were selected using the same methodology and at the same time as over-the-counter establishments. Two vending machines were inspected and 689 over-the-counter sites were inspected. This is a ratio of one vending machine to 345 over-the-counter outlets.

The following question pertains to the random sample survey required by the Synar Regulation to measure State compliance with youth access to tobacco laws.

7. **In 3-5 pages, report the complete results of the inspections conducted for the Synar survey during the FFY 2003. Report the unweighted and weighted retailer violation rates, including the corresponding standard error, and the confidence interval for the weighted reported retailer violation rate. Provide all supporting tables, formulas, and values used to calculate the final weighted retailer violation rate.**

The final weighted retailer violation rate for the FFY 2003 study was 11.37% with a 95% confidence interval of 2.23 percentage points, and a standard error of 1.38.

Every store was given a unique identifier and considered separately during the selection process within each stratum. Once a store was selected, all stores in that zip code were placed in the sample. Clusters were selected with probability proportional to size. In order to account for this effect, a weight inversely proportional to the probability of the cluster being selected was used in conjunction with rate of inspections (Appendix D). For the calculations of unweighted and weighted violation rates and the weighted violation rate confidence interval, please see Appendix B.

The original estimate of total outlet population accessible to youth was 2,087 individual sites. This estimate was adjusted to 2,034 utilizing FFY 2003 eligibility rates. An initial stratified sample was drawn of 799 with a final number of eligible outlets within the sample being 709. This sample included 42 new establishments identified during the course of the project, and excluded 18 non-completed inspections and 132 ineligible establishments ( $799 + 42 - 18 - 132 = 691$ ); all 691 outlets were inspected. Therefore, 691 facilities were inspected out of 709 eligible facilities.

Group 1 consisted of zip codes that contained more than 60 establishments and had an unweighted buy rate of 13.06%. Group 2 was comprised of zip codes with 20 to 60 identified establishments and had an unweighted buy rate of 11.69%. Stratum 3 contained zip codes with 1 to 19 stores and had an unweighted buy rate of 9.14%. The total weighted noncompliance rate for the Nevada was 11.37% with an unweighted buy rate of 11.58% (Table 6 and Appendix B, Form 2). The confidence interval for the weighted retailer violation rate is +2.28%.

- Refer to Appendix B for the completed Form 1.
- Refer to Appendix B for the completed Form 2.
- Refer to Appendix B for the completed Form 3.

**Table 6**  
**Weighted and Unweighted Noncompliance Rates**

<b>Group/Stratum</b>	<b>Outlets Inspected</b>	<b>Outlets in Violation</b>	<b>Unweighted Noncompliance</b>	<b>Weighted Noncompliance</b>
1	268	35	13.06%	4.68%
2	248	29	11.69%	4.11%
3	175	16	9.14%	2.59%
<b>Total</b>	<b>691</b>	<b>80</b>	<b>11.58%</b>	<b>11.37%</b>

**8. Describe the protocol for conducting random, unannounced inspections. Ensure the following specific items are addressed in your description:**

- **Have any changes been made in the inspection protocol from the previous year?**

No changes in inspection protocol have been made from previous years.

- **Indicate the start and end dates of the Synar inspections conducted during the current reporting period and whether the dates are different from previous years:**

Synar inspections were conducted by the Attorney General's Office between October 1, 2002 and July 16, 2003.

- **Describe the methods used to recruit, select, and train youth inspectors and adult supervisors:**

The Attorney General employs eight youth inspectors (four in southern Nevada and four in northern Nevada). They are recruited through various means including high school counselors, law enforcement scouting groups, and churches. Only eight may be employed at one time.

The Attorney General employs two full time investigators who supervise these youth in conducting the inspections. The investigators are Nevada POST certified law enforcement officers. The Attorney General's Office advertises in newspapers with general circulation and receives applications from interested persons. The interviews are conducted by the Attorney General's Investigations Division's Chief and the Chief Tobacco Counsel for the Attorney General's Office. Complete background checks are conducted for those offered the position.

Prospective teens are first told how compliance checks are conducted and then questioned to assure that they understand the protocol. The youth then accompany a current employee for up to four hours. During these four hours, the trainee and an experienced youth go into outlets accompanied by an adult investigator. The trainee observes first hand the purchase attempts made by the experienced teen.

- **Describe the inspection methodology used. (e.g., consummated or unconsummated buys, instructions for carrying and showing identification, team composition and whether an adult monitor enters the outlet with the youth inspector, time of day inspections are conducted, compensation for the minors, data collection procedures, etc):**

A youth inspector enters the store immediately after or before the adult supervisor, and attempts to purchase a tobacco product such as cigarettes or smokeless tobacco. Generally, females do not attempt to purchase smokeless tobacco. If the clerk asks for photo identification, the youth presents his or her own driver's license, state identification card, or instructional permit. The driver's license or state identification card indicates the true age of the teen and says "Not 18 Until 2004" (or the appropriate year in which the youth will reach 18 years of age). If the minor does not have a photo, he (or she) tells the clerk that he does not have photo identification with him. If the clerk asks how old he is, the teen tells the truth. If the youth is sold tobacco, he leaves the store and the investigator returns and issues a citation to the sales staff. The tobacco purchased is held as evidence. Within a reasonable time period, the Attorney General's Office mails a letter to every store that was inspected reporting the results of the inspections. The notice may be faxed at the request of the owner of the store. The officer accompanying the minor completes and issues the citation, but the youth fills out the evidence bag with the pertinent information.

Whenever possible, youth inspectors do not enter outlets alone, but are accompanied by an adult supervisor. If the outlet is so small that the investigator would in effect disclose the fact that a compliance check is being conducted, the investigator remains outside the outlet. In those situations, the investigator makes every effort to observe the youth from the outside of the outlet.

If the store sales staff refuses to sell tobacco to the minor, the investigator will present the sales staff with a congratulatory card from the Attorney General. The card's congratulatory message is printed in English and Spanish and includes a "WE CARD" lapel pin.

- **Besides what is specified in the State youth access tobacco law, explain whether the State has other legal or procedural requirements regarding how inspections are to be conducted (i.e., age of minor, time of inspections, training that must occur)?**

Fifteen, 16, and 17 year old minors are used to conduct compliance checks; minors younger than 14 and older than 17 are not used.

- **Describe specific legal or procedural requirements the State has instituted to address the issue of minor's immunity when conducting inspections:**

No grant of immunity need be obtained for the children to participate in tobacco purchases because it is not against the state law for any child to possess tobacco.

- **Describe specific legal or procedural requirements the State has instituted to address the issue of child safety:**

When possible, investigators are required to accompany the youths into the stores where tobacco is sold. In addition, investigators are directed not to conduct an

inspection if they observe any law enforcement activity or any activity that may be a threat to the safety of the youth (e.g. illegal drug purchases). Furthermore, the WE CARD congratulatory card and lapel pin are not distributed if there is any possible threat to the safety of the underage youth.

## SECTION II

### FFY 2004 (Intended Use)

**In 2-5 pages, describe the State's plans to achieve the interim target rate for FFY 2004 (Part 96.130 (e) (4)). Ensure the following specific items are addressed in your description of activities and/or changes that are planned.**

- **Sampling methodology:**

The Attorney General's Office maintains a list of retail outlets accessible to minors, and essentially performs a census sampling of all retail outlets by inspecting them twice yearly. For this reason, the arduous and complex methodology currently being applied is not necessary. Beginning with the FFY 2004 study, Nevada will utilize a simple random sample without replacement methodology for the Synar study. This method was approved by the Center for Substance Abuse Prevention on June 18, 2003 (Appendix A, Methodology Change Approval Letter). This new methodology is detailed below:

- Every tobacco outlet on the Synar database will be assigned a unique identifying number that will be used when selecting the random number. Selecting the sample in this manner will ensure that:
  - Each tobacco outlet will have the same chance (n/N) of being selected in the sample.
  - Outlet selection will not be influenced by those already selected.
  - The sample will contain the calculated minimum sample size.
- The probability that any given tobacco outlet will appear in the sample is n/N where: n is the predetermined sample size and N is the total number of tobacco outlets in Nevada. A computer program such as Excel, Access, or SPSS, that has the ability to generate pseudorandom numbers, will be used to select the sample.
- The total number of tobacco outlets (N), based on the most current Synar database download, is 1,920 (this number will be updated when the next Synar sample is drawn). The violation rate (p) for 2003 was 11.37%. The Center for Substance Abuse Prevention (CSAP) recommends the use of a right-sided 95% confidence interval when estimating the violation rate. The formula for the right-sided 95% confidence interval is:

$$p \pm 1.645 \sqrt{1 - \frac{n}{N}} \sqrt{\frac{\hat{p}(1-\hat{p})}{n}}$$

- To ensure that an adequate number of outlets are included in the sample, and to improve of accuracy of the study, a two-sided 95% confidence interval will be used to calculate the minimum sample size. The two-sided 95% confidence interval formula is:

$$p \pm 1.96 \sqrt{1 - \frac{n}{N}} \sqrt{\frac{\hat{p}(1-\hat{p})}{n}}$$

- The calculation of the minimum sample size needed to assure a 95% confidence interval with a standard error less than 3% is as follows:

$$0.03 \geq 1.96 \sqrt{1 - \frac{n}{N}} \sqrt{\frac{\hat{p}(1-\hat{p})}{n}}$$

Using 1,920 as the value for the total number of outlets (N), and 11.37% for the violation rate (P), the minimum sample size for next year's study should be 352. However, to ensure the study meets SAMHSA's precision requirement, 100 additional establishments will be selected in the random sample. These added establishments will compensate for those not eligible or not inspected because they are temporarily closed, unsafe for minors, or out of business. Thus the total sample size (n) for next year's sample will be 452. This minimum sample size will be recalculated with the updated retail outlet list when the 2004 Synar sample is drawn.

▪ **Inspection protocol:**

No inspection protocol changes are planned.

▪ **Legislative actions and/or regulatory changes:**

See response to Question 1 regarding SB 315.

▪ **Law enforcement:**

The Attorney General is planning to notify all businesses, which have or did have a cigarette vending machine, concerning the requirements of SB 315 - the new law that bans cigarette vending machines except in gaming and bar areas where minors under 21 are prohibited from loitering by state law. This activity will not begin until October 1, 2003 when the new law takes effect.

▪ **Activities that support law enforcement such as merchant education, community education, media use, community mobilization.**

The Attorney General's Office plans to strengthen its merchant education activities. Possibilities include using the results of the merchant survey to change merchant education. In addition, the Nevada Office of Juvenile Justice Assistance maintains a database of compliance checks of businesses that are checked for the illegal sale of alcohol to minors. Both offices are reviewing whether to compare databases and try to identify outlets that are particularly successful in refusing the sale of tobacco and alcohol products. Then, those successful businesses would be

surveyed to learn the business practices within those stores that are successful in reducing alcohol and tobacco sales to minors.

**Describe the State's strengths and challenges it faces in complying with the Synar requirements:**

The Attorney General's Office has reviewed data on the number of compliance checks completed by the two tobacco compliance investigators over the past two and one-half years along with the hours worked. The Attorney General's Office has initiated internal procedures including requiring monthly schedules for the youths and additional planning of compliance check routes. These activities have resulted in increased numbers of compliance checks being conducted by the investigators. At the same time, the percentage of illegal sales have decreased, resulting in fewer citations being issued. The fewer citations being issued has resulted in additional time to conduct more compliance checks. Furthermore, the FAX notice program allows the administrative assistant to complete the notices to stores more quickly. The overall result is that more compliance checks are being conducted by the Attorney General's office with the same time and staff.

**Describe any administrative or legal constraints on regulation and enforcement:**

Please refer to Question 5 above.

**Describe the level of public support for inspections, enforcement, and public policy efforts:**

The program is strongly supported by the retail community and public in general as discussed above.